REMARKS

In the Office Action dated November 17, 2005, claims 1-25 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 5,940,354 (Inoue).

It is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 1, as there existed no motivation or suggestion to modify Inoue in the manner proposed by the Office Action. *See* M.P.E.P. § 2143 (8th ed., Rev. 3), at 2100-135.

As conceded by the Office Action, Inoue does not disclose the following element of claim 1: detecting at least a portion of the emitted signal when the emitted signal is reflected from the data cartridge. Nevertheless, the Office Action stated that "[i]t would have been obvious to someone within the level of skill in the art at the time of the invention was made to modify the light detector of INOUE's cartridge detector as claimed." 11/17/2005 Office Action at 3. The rationale provided by the Office Action for this assertion is that the light detector of Inoue performs "the same functions with the applicant's invention, which is [sic] detected the present/absent of the data cartridge in the cartridge engaging assembly." *Id.* at 3-4. A further rationale provided by the Office Action is that the "principle of light detector using reflecting light for detecting the present/absent of the data cartridge is old and widely used in the art (see GEIGER et al. (5,099,465) in previous Office action)." *Id.* at 4.

Although Inoue does disclose a mechanism for detecting whether an accessor 28 has received a cartridge, the fact remains that the Inoue mechanism and the invention of claim 1 are quite different. To support the obviousness rejection, some evidence must exist to suggest modifying the Inoue mechanism to achieve the claimed invention. It is respectfully submitted that no such evidence existed. Geiger does not provide the requisite suggestion to modify Inoue to achieve the claimed subject matter. Geiger discloses a light source 8 and a photoelectric element 10 provided on a playback section 1 that is used for the purpose of detecting whether a CD is located in some *external structure*: the magazine 4. Geiger, 2:43-3:5. Thus, what Geiger would have suggested to a person of ordinary skill in the art is that a reflection-based technique for detecting whether a storage medium is present or not is used in the context of one device (the playback section 1) needing to detect whether a medium is located in a separate device (the magazine 4). Thus, if Inoue were to be modified based on the teachings of Geiger, then the Inoue mechanism 70 (see Fig. 7 of Inoue) would be modified to emit light to an external

structure to detect whether the cartridge is located in the external structure (not whether the cartridge is located in the accessor 28). In view of the foregoing, it is respectfully submitted that clearly, no motivation or suggestion existed to modify Inoue. Therefore, a *prima facie* case of obviousness has not been established with respect to claim 1.

Independent claims 6, 7, 10, and 15 are similarly allowable over Inoue.

Dependent claims are allowable for at least the same reasons as corresponding independent claims. Moreover, with respect to claim 5 (which depends from claim 1), Inoue clearly does not suggest the deciphering a color of the data cartridge based on the detected signal. The Office Action stated that "it would have been obvious to modify the light detecting of INOUE's cartridge detecting system by including a color-deciphering component (e.g., suitable wavelength detection and measurement hardware and the related program code, where necessary) for detecting the color of data cartridge since color-deciphering component is old and widely used in the art for determining the characteristic of a storage medium ...." 11/17/2005 Office Action at 4-5. The Office Action has cited no actual evidence that would have provided the requisite suggestion to modify Inoue to decipher a color of the data cartridge based on the detected signal. The conclusory statement made in the Office Action that deciphering a color is old is insufficient to support the *prima facie* case of obviousness.

Dependent claims 12, 14, 20, and 24 are similarly allowable.

Dependent claim 19 is also allowable because there existed no motivation or suggestion to modify Inoue to provide a processor to identify a type of the data cartridge based on the reflected signal. The Office Action has provided no evidence regarding why it would have been obvious to modify Inoue to provide a processor to identify a type of a data cartridge.

With respect to claim 25, it is respectfully submitted that the Inoue mechanism does not include a signal detector to detect a characteristic of a surface of a data cartridge. No evidence has been cited by the Office Action that would have suggested a modification of Inoue to provide the signal detector recited in claim 25.

With respect to claim 23, the Office Action stated that "the feature of mounting light emitter in a computer board is inherent in INOUE's cartridge detecting system since every circuit boards [sic] in INOUE's cartridge detecting system is considered as computer board." 11/17/2005 Office Action at 6.

Inoue does not explain where its light emitting unit 71 and photosensor unit 72 are mounted. To establish a rejection based on inherency, the Office Action must explain why a particular claim feature is necessarily part of the cited reference. Here, it is respectfully submitted that clearly, Inoue does not necessarily include a computer board *on* the cartridge engaging assembly, where the signal emitter is mounted on such a computer board.

In view of the foregoing, allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10012665-4).

Respectfully submitted,

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